

## **AML ADVISORY COMMITTEE**

### **Minutes**

### **Semi-Annual Meeting**

**September 7, 2011**

A regular meeting of the AML Advisory Committee was called to order at the Powell River Project at 3:00 p.m.

Present: Jerry Baird, Chairman, Retired from Equitable Resources, Earl Bandy, Director, OSM Field Office, Glenn Graham, Lonesome Pine Soil and Water, Ian Dye, Office of Surface Mining; Jeff Jones, NRCS Richmond, Phil Shelton, citizen; Roger Williams, Gavin Bledsoe, Richard Davis, and Randy Casey, Department of Mines, Minerals and Energy.

Absent: Carol Doss, Upper Tennessee River Roundtable Gerald Ramsey, Consolidation Coal; Martha Podren, TVA, Eddie Hannah, Lonesome Pie Soil and Water.

Minutes were transcribed by Dawn F. Bays.

Jerry Baird presided. Jerry opened the meeting with a discussion of the minutes of the previous meeting. The minutes of the May 25, 2011, meeting were approved unanimously.

#### **DMLR Program Update – Roger Williams**

Roger explained the large amount of turnover in the DMME staff. We have experienced a dramatic increase of staff leaving either through retirement or through resignations. We have had four to retire this year and four that plan to retire by the end of this year. We have had seven resignations, some of which are in key areas such as the head of our mapping, the head of our permitting, and several in our technical section that were involved in permit reviews. Industry is doing so well right now; this is the reason for some of loss of employees. These people are getting significant salary increases. It has been 6-7 years since we have received a raise, so this makes it difficult for us to retain staff. This will probably continue until our state budget turns around.

**Budget** – We have been very fortunate in our Title V and our Title IV AML Program. There was FY12 appropriation Bill HR2584 that had a lot of discussion and a lot of riders on it. The House in the final analysis ended up deferring any action on the Bill until after the August recess which began on August 2<sup>nd</sup> and will continue through September 7<sup>th</sup>. It is unlikely that Congress is going to pass few if any separate appropriations bills giving the rapidly approaching fiscal year which begins October 1<sup>st</sup>. we are likely to either get a continuing resolution and/or omnibus appropriation bill for 2012. Given the budget ceiling and debt crisis there is very little time for people to get riders in on the appropriations bill. They seem to be settling in on keeping the levels the same as the previous year which is good news for us. We are going to have some cuts but probably not major cuts. We are going to get a cut of about \$8 million for the AML program operations. That money will be made up of cuts from the emergency program. They took another million from high priority projects and cut \$2.25 million in OSM's reclamation program staff. This is nation-wide.

There were a lot of other activities on the Title V budget. The White House had projected to do a lot of changes on enhanced oversight and clean stream regulations. They included in the House Bill, prohibition about using any funds that OSM received to do any enhancements or improvements in the oversight. They prohibited the use of enforcing anything on the stream protection rule. There was a prohibition about enforcing regulations that identify fossil fuel combustion waste as hazardous waste. This was an EPA rule that stirred a lot of controversy. This would have an effect on the Dominion Power Plant. It appears this will not take place as of now. Considering where the budget could have been, we came out pretty good.

We understand that in 2013 there may be some across the board cuts of about 10% for all Federal agencies.

**AMD** - acid mine drainage projects and partnering efforts with the NRCS.

We have done about 12 different projects, starting in 2001 that we have worked on in the AMD area. Five of those were with the CORP, and so far we have gotten about five finished in partnership with the NRCS. We have one project in the South Fork that we are undertaking ourselves and maybe partnering with the local county. Most of these are in Lee County. There were 39 sites that the NRCS picked up from the CORP studies which they felt would qualify for their watershed program. Some sites were deleted after further examination. They were either combined with other projects or we just deleted because we did not feel they were big enough as a standalone project. The NRCS tells us their funding is going down. Jeff can explain that a little later. They still need to be done, so we are doing some real estate work. We have contracted with Daniel Boone Soil and Water Conservation District and they have consulted with a company out of Middlesboro, KY to do right-of-way work. We had a tour last week with the head of the VA Dept. of Conservation and Recreation. We hope to partner with them on some AMD projects.

An issue we are running into when we approach people regarding landowners or mineral owners, they are willing to cooperate with us but they are frustrated with the mitigation credit process that is people operating mines on their properties face. These landowners are turning to us for help in obtaining these credits. They are reluctant now to give us an easement or sell land to us if that site might be a potential mitigation site for one of their lessees. This has delayed our ability to get them to finalize land rights for our AMD sites. We are running into this more and more.

The mitigation issue is one DMME does not control. We handle the permitting, but the CORP and EPA handle mitigation issues. We have tried to get these agencies to allow mitigation credits for the funding of public infrastructure projects like sewer projects. The industry is more than willing to participate in that, but the CORP and EPA so far have said no. The current process is not working. Several projects have been placed on the back burner due to the mitigation issues.

**AML Water Projects**

We are expecting two more water project applications before this year's deadline of October 1st - Tazewell County in the Bishop area and another phase in Buchanan County in the community of Hurley. Last year we put \$2.5 million in the public water projects. There is also a big need for sewer projects throughout the coalfields.

### **Operation & Maintenance issues on AMD projects**

The Daniel Boone Soil and Conservation District has helped us develop estimates for operation and maintenance of AMD projects. We came up with mowing, herbicides, cleaning out manholes, revegetation, maintain the roads, water testing, flushing the saps, and then eventually replacing the sap cells. We are estimating this to be on about a 12 ½ year cycle. We projected the cost for each year – 10 and 20 year. Looks like our 10 year maintenance cost will be about \$1.2 million for the sites completed so far.

### **Jeff Jones – NRCS Program Update**

Things are about the same as indicated from Wade in the last minutes.

The Ely Creek and Stone Creek work we have done in partnership with Lee County, DMME, the District is a shining example of what can be done when each of us do our own part to make a project successful. On our part we worked out that watershed plan and identified 39 sites that needed or fit into what we felt would qualify for some kind of acid mine drainage assistance.

The way this was split up was, we did the contracting at the federal lever for two of the sites on Gilbert Creek and the total contract price for that turned out to be about \$154,000. It was contracted to local firms which is part of the reason this economic stimulus package was so successful. It was awarded to Estes Brothers in Jonesville. They did a great job and did the work in just a little over a month. The behind the scenes work is the large part of our work in trying to get partners, land rights and all that needs to be done before the actual equipment gets on site. It does take time to get all this worked out. I believe these two sites were successful.

The work that was done on Knuckles, Lenges, and M&H Coal sites, the contract was awarded by DMME and awarded locally to Glass Machinery in Jonesville. This was about \$289,000. We had one discovery of an open portal during construction that was not known to be there. That caused a little delay in getting an additional design. We are amending the agreement between our agencies to add about another \$22,000. We will end up with around \$310,000 - \$320,000 for the sites, NRCS' portion (65%) for construction will be around \$460,000 for all five sites. You see huge benefits from these almost immediately.

Unfortunately, Congress has chosen to eliminate a couple of our legacy programs and it affects DMME. The RC&D Program was zeroed out. We have closed the office in the Black Diamond RC&D as well as six others across the State. There are still viable RC&D areas, we as an agency no longer have funding for those. This is the first time we have ever had to deal with this kind of thing. Congress for FY11 has zeroed out the watershed operations side of it and it looks like it may go in the way of RC&D and never be funded again. I am not sure if we are going to be able to provide financial support to the North Fork Powell through the watershed operations. This is a serious concern for us.

Hopefully other funding sources opportunities will be out there so these projects can be continued.

### **Earl Bandy**

Earl asked about the status of the post-act sites that had been funded. He indicated there was substantial new money available this year and we need to finish the existing post-act projects as soon as possible.

OSM's Government Performance Reporting Act (GPRA) rate was 11,000 acres for the AML program.. They just ran it and it was 4,000 acres. They want everyone to put their numbers in because this is what OMB looks at. They are not seeing the results of states spending at the increased levels with increased money. They are just asking what is going on. This will probably be discussed this at the AML meeting in October. The more results you can show, the better for AML program. There will be continuing emphasis on that area.

### **Randy Casey**

The Baker School blow-out is repaired. A bat gate still needs to be installed on the portal. We were able to do this under budget. The Wise Mine Pit is an open pit full of water near a neighborhood. We have only started developing a concept plan at this time to reclaim this site. A large AMD project near Pound is moving pretty steady. We have met with Wise County Board of Supervisors and working the realty. We have tentative approval from the landowners on property acquisition on that. We have had to revise the concept but we feel we have narrowed down the areas that they are willing to sell. This has downsized the size of the treatment system that we wanted to use. We hope we have engineered our way around some of that. Once we get these issues ironed out, our next goal will be approaching landowners and negotiating price. We had \$1 million budgeted, but we think the cost will be significantly less.

The Park Ave. Highwall Project in the town of Norton is still ongoing. Contracts have been signed. This has been a long process but it is moving along.

We have tried for years to do a project in Big Prater (Inez Pugh). WQIA money became available that we were able to get. We got some additional grant money totaling between the two at approximately \$232,000. We re-bid the project and the bid came in at \$231,000. We worked with the contractor and finally got him down to \$220,000 which gives us a little cushion. This project is finally going to start within the next month.

We were notified by OSM that we have some carry forward money of about \$468,000. We may apply this money to the Cloverleaf Highwall outside of Norton. We have had some VDOT right-of-way issues, but we can work around that.

We give recognition to OSM's Bill Ehler out of Pittsburgh on a couple of large subsidence issues. He has helped us out in Wise and Norton with his down hole camera. We would like to extend thanks to him for helping us with these projects.

We have a lot of projects on the shelf ready to go. We have five out to consultants and approximately 15 designed in-house that are ready to go to bid. Those are going well. There were

some rumblings that the states are not going to be able to spend all the money allocated, but Virginia is pretty well on course to obligate the money we have available.

**Committee Business**

Meeting adjourned.

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Roger L. Williams  
DMME Abandoned Mine Land Services Manager

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